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FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW IMMEDIATE

C O N F I D E N T I A L STATE 190964

E.O. 11652: GDS

TAGS: EWWT, UR, US

SUBJECT: NOTE PROTESTING SOVIET NONFULFILLMENT OF
MARITIME AGREEMENT

1. BELOW IS THE TEXT OF A NOTE TO BE PRESENTED TO THE
MINISTRY OF FOREIGN AFFAIRS, AT KORNIENKO LEVEL IF
POSSIBLE. IN PRESENTING IT, THE EMBASSY SHOULD STRESS THE
SERIOUS CONCERN WITH WHICH WE VIEW THE ACTIONS DESCRIBED
IN THE NOTE, AND THE FACT THAT THESE ACTIONS ARE UNDER-
MINING US-SOVIET MARITIME RELATIONS.

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2. BEGIN TEXT. THE GOVERNMENT OF THE UNITED STATES OF

AMERICA WISHES TO EXPRESS ITS DEEP CONCERN TO THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS OVER RECENT DEVELOPMENTS RELATED TO THE IMPLEMENTATION OF THE U.S.-U.S.S.R. MARITIME AGREEMENT SIGNED ON DECEMBER 29, 1975, THE ANNEXES THERETO AND RELATED MEMORANDA AND LETTERS, INCLUDING THE MEMORANDUM OF THE DESIGNATED REPRESENTATIVES CONCERNING BULK CARRIINGS OF SEPTEMBER 17, 1975.

THE RATE FOR THE CARRIAGE OF GRAIN TO THE SOVIET UNION BY U.S.-FLAG VESSELS WAS AGREED TO BY SOVIET MARITIME

OFFICIALS ON SEPTEMBER 17, 1975. SOVIET CHARTERERS, HOWEVER, DESPITE THEIR AGREEMENT TO THIS RATE ARRANGEMENT, HAVE ADOPTED TACTICS THAT FRUSTRATE ITS IMPLEMENTATION AND IN SO DOING HAVE IGNORED THE BASIC PRINCIPLES UNDERPINNING THE U.S.-U.S.S.R. MARITIME AGREEMENT. NOTABLY, SOVIET UNILATERAL ACTIONS HAVE SERVED TO DENY U.S.-FLAG VESSELS THE OPPORTUNITY TO CARRY A MINIMUM OF ONE-THIRD OF THE GRAIN CARGOES. AS A RESULT, SINCE SEPTEMBER 1975 U.S.-FLAG VESSELS HAVE CARRIED ONLY 25.6 PERCENT OF THE GRAIN SHIPMENTS. THE VOLUME OF CARGO CARRIED BY U.S.-FLAG SHIPS IS APPROXIMATELY 1 MILLION TONS LESS THAN A MINIMUM ONE-THIRD SHARE. THESE ACTIONS, WHICH IN MOST CASES ARE CONTRARY TO SPECIFIC PROVISIONS OF THE MARITIME AGREEMENT AND IN ALL CASES CONTRARY TO ITS SPIRIT AND INTENT, HAVE BEEN REPEATEDLY OBJECTED TO BY THE MARITIME ADMINISTRATION. TO DATE THE SOVIET SIDE HAS REFUSED TO ACKNOWLEDGE ITS OBLIGATION UNDER THE AGREEMENT TO INCREASE FUTURE GRAIN CARGO ALLOCATIONS TO PROVIDE U.S. CARRIERS THEIR ENTITLEMENT TO A FULL ONE-THIRD SHARE OF THE SHIPMENTS, AND CONTINUE TO USE PROCEDURES WHICH REDUCE U.S.-FLAG PARTICIPATION IN THE MONTHLY CARRIAGE OF GRAIN TO THE U.S.S.R.

THE GOVERNMENT OF THE UNITED STATES WISHES TO POINT OUT SEVERAL INSTANCES WHERE THE ACTIONS OF SOVIET MARITIME OFFICIALS RUN CONTRARY TO THE EXISTING MARITIME AGREEMENT BETWEEN OUR TWO COUNTRIES. A RECENT TELEX FROM SOVFRACHT, NEW YORK, DATED JULY 13, 1976, ADVISED THE MARITIME
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ADMINISTRATION OF THE VOLUME OF THE AUGUST SHIPPING PROGRAM, AND INDICATED THE U.S. SHARE OF SUCH PROGRAM. THIS OFFERING CONTAINED UNIQUE PROVISIONS, ALL CONTRARY TO EXISTING UNDERSTANDINGS, AND EFFECTUALLY PRECLUDED U.S. PARTICIPATION FROM THE AUGUST PROGRAM. THESE PROVISIONS INCLUDED A REQUEST THAT MARAD QUOTE THESE CARGOES TO U.S. OWNERS AND CONFIRM THAT FREIGHT RATES WERE TO BE AGREED UPON BETWEEN OWNERS AND CHARTERERS DIRECTLY; THAT VESSELS

DESTINED FOR NAKHODKA BE LIMITED TO A DRAFT OF 32 FEET;
THAT TANKERS WERE UNACCEPTABLE FOR NAKHODKA; AND, THAT
ONLY BULK-TYPE VESSELS WOULD BE USED IN THE USNH-GULF/
BLACK SEA-BALTIC SHIPMENTS.

THE SOVIET REQUIREMENT THAT FREIGHT RATES FOR THE AUGUST
SHIPMENTS CITED ABOVE BE AGREED UPON BETWEEN VESSEL OWNERS
AND CHARTERERS DIRECTLY IS CONTRARY TO THE LETTER
REGARDING "MUTUALLY ACCEPTABLE RATES" EXCHANGED BETWEEN
MINISTER GUZHENKO AND SECRETARY MORTON ON DECEMBER 29, 1975.

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ACCORDING TO THIS LETTER "MUTUALLY ACCEPTABLE RATES" FOR
THE CARRIAGE OF GRAIN MUST BE AGREED UPON BY THE
DESIGNATED REPRESENTATIVES. ADJUSTMENTS TO THE BASIC
GULF/BLACK SEA RATE HAVE BEEN AGREED UPON FOR THOSE
TRADES WHICH THE SOVIET SIDE CONSIDERED DESIRABLE. SHOULD
ADDITIONAL ADJUSTMENTS FOR DIFFERENT TRADE AREAS BE
NECESSARY, THE U.S. SIDE IS PREPARED TO NEGOTIATE THEM.

THE PROHIBITION REGARDING THE USE OF TANKERS IS CONTRARY
TO SEVERAL UNDERSTANDINGS REGARDING THE USE OF TANKERS
BETWEEN BOTH GOVERNMENTS DURING THE PAST FOUR YEARS, THE
MOST RECENT ONE BEING CONTAINED IN PARAGRAPH V. A OF THE
MEMORANDUM CONCERNING BULK CARRIINGS SIGNED ON
DECEMBER 29, 1975. IN ADDITION, THE RESTRICTION THAT
VESSELS ARRIVE IN NAKHODKA WITH A DRAFT NOT TO EXCEED
32 FEET IS UNREASONABLE AND APPEARS CONTRARY TO PARAGRAPH
V. B OF THE ABOVE-MENTIONED MEMORANDUM.

WITH RESPECT TO THE SOVFRACHT MANDATE THAT ONLY BULK-TYPE
VESSELS WOULD BE ACCEPTABLE TO SHIPPERS FOR A PORTION OF
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THE AUGUST PROGRAM, THE U.S. SIDE WISHES TO POINT OUT
THAT BOTH SIDES HAVE PREVIOUSLY AGREED TO THE USE OF
TANKERS FOR THE CARRIAGE OF CORN. THIS AGREEMENT WAS
REITERATED IN PARAGRAPH V. C OF THE BULK MEMORANDUM OF
DECEMBER 29, 1975 AND CONSISTENTLY COMPLIED TO DATE.

FURTHERMORE, IN VIEW OF THE DISCUSSIONS WHICH HAVE TAKEN
PLACE REGARDING THE LACK OF U.S.-FLAG VESSEL PARTICIPATION
IN THE AUGUST SHIPPING PROGRAM, WE ARE AT A LOSS TO
UNDERSTAND WHY NUMEROUS SOVIET TIME-CHARTERED VESSELS WERE
DESIGNATED TO PARTICIPATE IN THIS PROGRAM AND WHY THE
SOVIET VESSEL AZOV WAS NOMINATED TO CARRY 60,000 TONS OF
CORN FROM USNH/GULF TO THE BLACK SEA WHEN NUMEROUS U.S.-
FLAG VESSELS WERE PROPERLY OFFERED AND AVAILABLE TO CARRY
THIS CARGO.

THE GOVERNMENT OF THE UNITED STATES REGARDS THE SOVFRACHT ACTIONS CITED ABOVE AS A SERIOUS DISREGARD FOR THE PROVISIONS OF THE U.S.-U.S.S.R. MARITIME AGREEMENT AND THE ASSOCIATED DOCUMENTS RELATED THERETO. THE CONTINUED NONFULFILLMENT OF THE AGREEMENT BY THE SOVIET SIDE, ESPECIALLY WHEN IT RESULTS IN U.S.-FLAG VESSELS NOT PARTICIPATING IN THE CARRIAGE OF CARGOES TO THE LEVEL SPECIFIED IN THE AGREEMENT, CAN ONLY LEAD TO AN EROSION OF THE MARITIME RELATIONS WHICH HAVE BEEN DEVELOPED DURING THE PAST FOUR YEARS. THE GOVERNMENT OF THE UNITED STATES

IS HOPEFUL THAT BY CALLING THE ATTENTION OF THE GOVERNMENT OF THE U.S.S.R. TO THIS MATTER, STEPS WILL BE TAKEN BY APPROPRIATE SOVIET AUTHORITIES TO RECTIFY EXISTING SHORTCOMINGS WHICH PLAGUE THE ABILITY OF U.S.-FLAG VESSELS TO CARRY ONE-THIRD OF ALL CARGOES IN THE U.S.-U.S.S.R. BULK TRADE AND THAT FUTURE ACTIONS BY THE SOVIET SIDE WILL BE DIRECTED AT ACHIEVING BOTH THE SPIRIT AND INTENT OF THE EXISTING AGREEMENT. HABIB

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